

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADVANCED ANALYTICS, INC.,

Plaintiff,

-against-

CITIGROUP GLOBAL MARKETS, INC.
f/k/a SALOMON SMITH BARNEY, INC.,
and THE YIELD BOOK INC., f/k/a
SALOMON ANALYTICS, INC.,

Defendants.

No. 04 Civ. 3531 (LTS) (SLC)

**DECLARATION OF THOMAS S. KESSLER IN SUPPORT OF
DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO AAI'S
MOTION FOR THE RECORD ON APPEAL IN COMPLIANCE WITH
FEDERAL RULES OF APPELLATE PROCEDURE
10(a), 10(e)(1)(2)(A), (B), 11(b)(2)(A), AND 30(a)**

I, Thomas S. Kessler, declare under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am a member of the bar of this Court and a partner of the law firm of Cleary Gottlieb Steen & Hamilton LLP, counsel for defendants Citigroup Global Markets Inc. and The Yield Book Inc. (together, the "Defendants") in the above captioned matter. I respectfully submit this declaration in support of Defendants' Memorandum of Law in Opposition to AAI's Motion (the "Opposition").

2. Attached hereto as Exhibits A–I are true and correct copies of the following documents, which are referenced in the Opposition:

Exhibit	Description
A	Letter from P. Toren to C. O'Hagan Wolfe [D.I. 34] ¹ (Sept. 6, 2022)
B	Docket Sheet dated October 11, 2023, <i>Advanced Analytics, Inc. v. Citigroup Glob. Mkts., Inc., et al.</i> , No. 22-1718 (2d Cir.) (" <u>Second Circuit Docket Sheet</u> ")
C	Motion to Set Briefing Schedule and Require Leave of Court for Future Letter Filings by AAI [D.I. 73] (Apr. 6, 2023) (" <u>Defendants' Motion</u> ")
D	AAI's Opposition to Defendants' Motion [D.I. 82] (Apr. 24, 2023)
E	Order [D.I. 85] (May 4, 2023)
F	Plaintiff's (I) Motion for Record on Appeal In Compliance With Fed.R.App.Proc. and Local Rules and (II) Motion For Sanctions [D.I. 105] (July 11, 2023) (" <u>AAI's First 10(e) Motion</u> ")
G	Defendants' Opposition to AAI's First 10(e) Motion [D.I. 109] (July 21, 2023)
H	AAI's Motion for Extension of Time to File Brief and Appendix Pursuant to Federal Rules of Appellate Procedure 26(b) and Local Rule 27.1(f), 31.2(D) [D.I. 127] (Oct. 1, 2023)
I	Plaintiff's Supplemental Opposition to Defendants' Motion to Set Briefing Schedule and Require Leave of Court for Future AAI Filings [D.I. 94] (May 15, 2023)

¹ Docket citations to "[D.I.]" refer to the Second Circuit proceedings, *Advanced Analytics, Inc. v. Citigroup Global Markets, Inc., et al.*, No. 22-1718 (2d Cir.).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 11, 2023
New York, New York

/s/ Thomas S. Kessler

Thomas S. Kessler